



CITY OF MORGAN HILL

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

CITY COUNCIL AGENDA

SPECIAL MEETING & REGULAR MEETING

WEDNESDAY, DECEMBER 16, 1998

Morgan Hill Civic Center
Council Chambers
17555 Peak Avenue
Morgan Hill, California 95037

Mayor
Mayor Pro Tempore
Council Member
Council Member
Council Member

Dennis Kennedy
Cynthia J. Cook
Hedy L. Chang
Steve Tate
Greg Sellers

6:00 P.M.

OPPORTUNITY FOR PUBLIC COMMENT

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Legal Authority:	Government Code Section 54956.9(a)
Title of Case:	<u>Morgan Hill Unified School District v. Minter & Fahy Construction Company, Inc.; Fahy Construction Company, Inc., Cross Complaints</u>
Case Number:	CV772368
Court:	Superior Court, County of Santa Clara
Parties:	Morgan Hill Unified School District; Minter & Fahy Construction Company, Inc.; Fahy Construction Company, Inc.; City of Morgan Hill, Ameron International Corporation, Morgan Hill Corporation Yard Commission
Subject of Litigation:	Construction defect related to Corporation Yard gasoline leak
Closed Session Topic:	Conference with legal counsel - existing litigation

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Legal Authority:	Government Code Section 54956.9(a)
Title of Case:	<u>Beverly Freeman, v. City of Morgan Hill</u>
Case Number:	CV776425
Court:	Superior Court, County of Santa Clara
Parties:	Beverly Freeman; City of Morgan Hill
Subject of Litigation:	Complaint for Declaratory Relief
Closed Session Topic:	Conference with legal counsel - existing litigation

CLOSED SESSION ANNOUNCEMENT:

7:00 P.M.

PUBLIC COMMENTS ON ITEMS APPEARING ON AGENDA

The Morgan Hill City Council welcomes comments from all individuals on any agenda item being considered by the City Council. Please complete a Speaker Card and present it to the City Clerk. This will assist the Council Members in hearing your comments at the appropriate time. Speaker cards are available on the counter in the Council Chambers. In accordance with Government Code 54953.3 it is not a requirement to fill out a speaker card in order to speak to the Council. However, it is very helpful to the Council if speaker cards are submitted. As your name is called by the Mayor, please walk to the podium and speak directly into the microphone. Clearly state your name and address and then proceed to comment on the agenda item. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the City Council are limited to three minutes. We appreciate your cooperation.

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON AGENDA

Following the opening of Council business, the public may present comments on items **NOT** appearing on the agenda that are within the Council's jurisdiction. Should your comments require Council action, your request will be placed on the next appropriate agenda. No Council discussion or action may be taken until your item appears on a future agenda. You may contact the City Clerk for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your presentation to three (3) minutes.

NOTICE

AMERICANS WITH DISABILITIES ACT (ADA)

The City of Morgan Hill complies with the Americans with Disabilities Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City.

If assistance is needed regarding any item appearing on the City Council agenda, please contact the Office of the City Clerk at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation.

NOTICE

Notice is given, pursuant to Government Code Section 65009, that any challenge of Agenda Items #0 through #0 in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the Public Hearing on these matters.

NOTICE

The time within which judicial review must be sought of the action by the City Council which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

CALL TO ORDER

(Mayor Kennedy)

ROLL CALL ATTENDANCE

(City Clerk Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk Torrez)

SILENT INVOCATION

PUBLIC SERVICE ANNOUNCEMENT

Eric Hilding

PLEDGE OF ALLEGIANCE

PRESENTATIONS

Certificate of Thanks

Specialized Bikes

Donation of Police Bikes

INTRODUCTIONS

Refugio Lopez

Police Officer

CITY COUNCIL REPORT

Council Member Chang

CITY MANAGER'S REPORT

CLOSED SESSION ANNOUNCEMENTS/CITY ATTORNEY'S REPORT

CONSENT CALENDAR:

The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

1. **NOVEMBER FINANCE AND INVESTMENT REPORT**

Recommended Action: Accept and file report.

2. **RESOLUTION DESIGNATING DISASTER COORDINATORS**

Recommended Action: Adopt a Resolution designating City disaster coordinators.

3. **RESOLUTION AMENDING THE RECORDS RETENTION SCHEDULE FOR CITY OF MORGAN HILL**

Recommended Action: Adopt the attached Resolution amending the City's Records Retention Schedule.

4. **MORGAN HILL FRIENDLY INN PARKING LOT REPAVING**

Recommended Action: 1) Appropriate \$64,000 from the building maintenance fund balance and
2) authorize staff to develop project specifications and seek three bids.

5. **BUDGET AMENDMENT FOR SOLID WASTE MANAGEMENT FUND AND PURCHASE OF SOLID WASTE CONTAINERS FOR THE SUM OF \$760,000**
Recommended Action: 1) **Adopt** budget recommendations per Attachment A - additional revenues of \$225,000 and expenditures of \$405,000, 2) **find** and **determine** that competitive bids upon notice would not be likely to result in a lower price to the City from a responsible bidder and would cause unnecessary expense or delay under the circumstances for the purchase of the required supply of recycling and yard trimmings carts and 3) **authorize** the City Manager to purchase recycling and yard trimmings carts without competitive bids for the sum of approximately \$760,000.
6. **PURCHASE OF INTERACTIVE VOICE RESPONSE SYSTEM FOR \$24,304**
Recommended Action: **Authorize** the City Manager to execute a contract to purchase an Interactive Voice Response System from Selectron, Inc.
7. **VTa FUNDING AGREEMENT FOR 3-YEAR LEASE OF ELECTRIC VEHICLE**
Recommended Action: **Authorize** City Manager to sign attached agreement with Valley Transportation Authority (VTA).
8. **AWARD OF PROFESSIONAL SERVICES CONTRACT FOR THE DESIGN OF NORDSTROM PARK FOR \$83,015**
Recommended Action: **Award** contract to Beals Landscape Architecture, Incorporated (BLAI) for the design of Nordstrom Park in the amount of \$ 83, 015.
9. **PURCHASE OF PUBLIC WORKS REPLACEMENT AND NEW VEHICLES FOR \$140,907.52**
Recommended Action: 1) **Authorize** vehicle purchases through the State of California General Services Procurement process for the vehicles identified in this report for a total cost of \$140,907.52 and 2) **declare** vehicles on attached spreadsheet as surplus and **authorize** sale at auction, except vehicle No. 145 to be sold to MHUSD for \$2,000.
10. **STAFFING CHANGE IN ADMINISTRATION**
Recommended Action: 1) **Adopt** the attached Resolution amending the Management, Professional and Confidential Employee Resolution No. 5178 and 2) **approve** an amendment to the FY 98-99 budget to eliminate the position of Council Services and Records Manager and to add the position of Administration Support Services Supervisor.
11. **APPROVAL OF SPECIAL MEETING MINUTES OF NOVEMBER 17, 1998** (Continued from 12/2/98)
12. **APPROVAL OF REGULAR MEETING MINUTES OF NOVEMBER 18, 1998** (Continued from 12/2/98)
13. **APPROVAL OF REGULAR MEETING MINUTES OF DECEMBER 2, 1998**

LEGALLY NOTICED PUBLIC HEARINGS:

14. **UP 98-11 TENNANT-RITE AID** (Continued from 12/2/98)
Recommended Action: Request staff presentation.
The Mayor will open the Public Hearing.
Please limit your remarks to 3 minutes. The Mayor will close the Public Hearing.
Council discussion.
Action - Motion to approve Mitigated Negative Declaration;
Action - Motion to adopt Resolution upholding the Planning Commission decision to approve the use permit request.

15. **PUBLIC HEARING FOR EXEMPTION TO CONSTRUCT STREET IMPROVEMENTS AND UNDERGROUND OVERHEAD UTILITIES - 16870 MURPHY AVENUE, ADVENT LUTHERAN CHURCH**

Recommended Action: Request staff presentation.

The Mayor will open the Public Hearing.

Please limit your remarks to 3 minutes. The Mayor will close the Public Hearing.

Council discussion.

Action - Motion to make finding that installation on such a small scale would be uneconomical and that said improvement can hereafter be installed more economically and efficiently as a portion of a larger project;

Action - Motion to grant exemption to the requirement to construct street improvements and underground overhead utilities with payment in lieu of the proposed improvements at 16870 Murphy Avenue for the Advent Lutheran Church.

OTHER BUSINESS:

16. **ANNUAL FINANCIAL REPORT FOR THE 1997-1998 FISCAL YEAR**

Recommended Action: Accept and file the annual financial report for the year ended June 30, 1998.

17. **REDEVELOPMENT AGENCY ANNUAL FINANCIAL REPORT FOR THE 1997-1998 FISCAL YEAR, INCLUDING THE AUDIT REPORT AND THE STATE CONTROLLER'S REPORT**

Recommended Action: Accept and file the RDA Annual Financial Report for the year ended June 30, 1998 subject to the approval of the Redevelopment Agency.

18. **FIVE YEAR PROJECTIONS**

Recommended Action: Accept and file report.

19. **AUTHORIZATION TO APPLY FOR FEDERAL FUNDS FOR POLICE OFFICERS**

Recommended Action: Authorize the City Manager to apply for a C.O.P.S. Grant funds for \$225,000 to partially fund three police officers for three years.

20. **REVIEW OF CONCEPTUAL DESIGN STUDIES FOR TWO LARGE ACREAGE SITES FOR FLOOD RELIEF INCLUDING STORM WATER DETENTION/PARKS FACILITIES** (Continued from 12/2/98)

Recommended Action: Direct staff to work with City real property acquisition expert to explore possible costs of options on lands needed for both projects.

21. **REVIEW FY 98/99 - 02/03 CAPITAL IMPROVEMENTS PROGRAM (CIP)**

Recommended Action: Review and approve the FY 98/99 - 02/03 CIP.

22. **AB1600 IMPACT FEE REPORT FOR THE FISCAL YEAR 1997/98**

Recommended Action: 1) Make a finding that all AB1600 Impact Fees are expended or committed and 2) accept and file the Impact Fee Report.

23. **EXCEPTION OF LOSS OF BUILDING ALLOCATION, ELBA: DAA 98-02: CIOLINO-KALMIKOV**

Recommended Action: Approval of ELBA *not* recommended. *Should* Council wish to approve the ELBA, a Resolution of Approval is attached.

24. **PROPOSED REVISION OF CITY COUNCIL POLICY FOR THE SELECTION OF MAYOR AND MAYOR PRO TEMPORE**

Recommended Action: 1) Rescind existing "Mayoral Policy" dated December 2, 1994 and 2) adopt policy providing for the appointment of the Mayor Pro Tempore.

25. **APPOINTMENT OF MAYOR PRO TEMPORE**
Recommended Action: Subject to policy adopted by the City Council, **appoint** a Council Member to serve as Mayor Pro Tempore.
26. **APPOINTMENTS TO THE GENERAL PLAN TASK FORCE**
Recommended Action: For the Mayor to **appoint** two individuals to the General Plan Task Force to fill two unexpired vacancies, subject to the approval of the City Council.
27. **SIDEWALKS IN INDUSTRIAL ZONING DISTRICTS** (Continued from 12/2/98)
Recommended Action: **Motion to approve** policy requiring sidewalks in industrial zoning districts.
28. **REQUEST TO DEVELOP COUNCIL POLICY ON ACTION MINUTES**
Recommended Action: Direct staff to develop a City Council policy regarding Action Minutes with both audio and video tape back-up.

ROLL CALL VOTE: The Roll Call Vote, Agenda Items # through # may be acted upon with one motion, a second and the roll call vote. The titles having previously been read, no second reading is required. (Government Code Section 36934)
Action -- **Adopt** Ordinance by roll call vote.
Items continued from 12/2/98.

29. **SECOND READING AND ADOPTION OF ORDINANCE NO. 1418, NEW SERIES** -- An Ordinance of the City Council of the City of Morgan Hill approving development agreement application DA-98-08: Malaguerra-Ansuini for application MP-98-03: Malaguerra-Ansuini (APN 727-35-011).
30. **SECOND READING AND ADOPTION OF ORDINANCE NO. 1419, NEW SERIES** -- An Ordinance of the City Council of the City of Morgan Hill approving an amendment to the precise development plan for the Sunnybrook Hills Residential Planned Development, establishing minimum five-foot side yard setbacks for the 123 lot, 57 acre development on Easy Street and adjoining side streets northeasterly of the intersection of Sunshine Street and Santa Teresa Boulevard.

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

This is an opportunity for members of the City Council to request items for future agendas.

Note: in accordance with government code section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT

FUTURE COUNCIL AGENDA ITEMS:

***NOTE:** *Per City Council, meeting of 1/6/99 is canceled.*

1. Council Committee Appointments
2. Resolution of Commitment - Silicon Valley 2010
3. Approve Selection Process for Parks & Recreation Commission Sub-committees
4. Interview and Appointment of One Planning Commissioner to Fill the Unexpired Term of Steve Tate
5. Refinancing of Three Assessment Districts
6. Accept Contracts for New Diana Well and for the Dunne Well